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Locked up and locked out of the U.S. labor market

The New Scarlet Letter? Negotiating the U.S. Labor Market with a Criminal Record. By Steven Raphael, W.E. Upjohn Institute for Employment Research, 2014, \$14.99 /paperback.

Sentencing laws and policies underwent a number of changes beginning in the 1970s, evolving from an environment of indeterminate sentencing, in which the judge determines the length of incarceration, to one of determinate sentencing, which uses a formula, leaving judges with little or no discretion in the decision. As a result, incarceration rates began an upward trajectory around 1975, then escalated sharply in the 1980s as part of the war on drugs. The “tough-on-crime” approach continued into the 1990s through such policies as mandatory minimums, truth-in-sentencing laws, and three-strikes laws. Partially as a result, today the United States has a disproportionate share of the world’s incarcerated individuals: with just 5 percent of the world’s population, the nation is home to 25 percent of the world’s prisoners, amounting to 2.3 million people in 2011. The increasing number of inmates has drawn attention in recent years because of budgetary constraints and the high cost of incarceration. From Attorney General Eric Holder’s policy shift away from prosecuting low-level drug crimes to the introduction of several bipartisan sentencing reform efforts, policymakers have attempted to shrink the number of those confined in correctional institutions, with some success: the size of the incarcerated population has indeed begun falling. Unfortunately, these actions have created a new problem: how to reintegrate the staggering numbers of formerly incarcerated persons back into the rest of society. In *The New Scarlet Letter? Negotiating the U.S. Labor Market with a Criminal Record*, Steven Raphael argues that stable employment is paramount to successful reentry and, consequently, policies are needed to address the barriers to employment facing this population.

Raphael sets out to accomplish two main objectives in this book. First, he provides information on the demographic characteristics of the prison population and describes the labor market challenges that population often faces independently of its own criminal history. Second, he endeavors to analyze current and past reintegration policy efforts to reduce recidivism and then offers his own recommendations. To support these recommendations, Raphael uses data from the U.S. Census Bureau, the Bureau of Justice Statistics (BJS), the National Longitudinal Survey of the Bureau of Labor Statistics (BLS), and program evaluations, among others.

Raphael points to two primary reasons that so many Americans are in prison: greater policing efforts and the degree of sentencing at the federal and state levels. He uses BJS data and previous research [Raphael and Stoll, *Why Are So Many Americans in Prison?* (New York: Russell Sage Foundation, 2013)] data on both arrests per crime and prison admissions per arrest to support those positions. Raphael highlights some startling statistics to describe the scope and severity of the problem of incarceration and reentry into society. He reports, for example, that, in 2007, 2 percent of the adult male population (8 percent for non-Hispanic Black men) was incarcerated on any given day. Per Raphael, the lifetime likelihood of serving time for a male child born in 2001 is 6 percent for Whites, 32 percent for Blacks, and 17 percent for Hispanics. He finds that prisoners in the United States are disproportionately Black and disproportionately low income, with low levels of educational attainment. He successfully links mass incarceration to poor employment outcomes by comparing the similarity in demographics of both phenomena, but the point would have been more effective had he included unemployment rates or earnings data for these demographics. He suggests that, to properly analyze the issue of reentry into

society, the lifetime likelihood of serving time is a more pertinent indicator of the size of the problem than is the current daily rate of incarceration, because that likelihood represents the size of the population that will reenter.

Raphael also points out the data limitations—namely, that there is no household survey which captures criminal histories of respondents, the way the BLS Current Population Survey and the Census Bureau’s American Community Survey capture characteristics such as the educational attainment and veteran status of their respondents, along with their current employment status. He examines the correlation between incarceration in one’s youth and the likelihood of being incarcerated as an adult, as well as the effects of local criminal justice policies in shaping current and future inmates. He notes that, as a result of the increased use of long-term incarceration for felony drug and property crime convictions, those serving short sentences are overrepresented in the released population and contribute most to the growth of the “former inmate population.” Raphael emphasizes the need to concentrate on this cohort, because its members are the “recently released” who will show up on employers’ doorsteps. He also reiterates the labor market challenges that ex-convicts face, limiting their employability: low levels of education and little or no previous work experience. These factors affect employment outcomes, even for those without the stigma of a criminal record.

Raphael next formulates an argument about the detrimental causal effects of a criminal history on one’s employment prospects: “Perceptions on the demand side of the labor market regarding specific risks associated with an applicant’s criminal record, whether justified or not, certainly [limit] the employment opportunities available to former inmates, compounding the effects of the barriers created by their own demographics.” He emphasizes that, because employers have few options to screen applicants for criminal records, the easiest route is often to “guess based on demeanor, personal presentation, signals on one’s resume regarding unexplained absences from the labor market, or race.” As evidence, Raphael cites a study of California employers demonstrating a high probability of rejecting an applicant with a criminal record (37 percent of employers) and another, audit study revealing that time spent in prison reduces the likelihood of being called back for a job interview. He concludes that the increased incarceration rate and the disparity of its effects weakens the labor market options for ex-convicts in certain demographic groups because some employers may inaccurately ascribe to these individuals a criminal history where none exists—a theme that is repeated throughout the book. The dearth of data available on former inmates’ labor force experiences, however, limits the force of his argument.

Once Raphael has built a case for the “scarlet letter” of a criminal record, he proceeds to ask the question, “Do we know what works?” The general consensus of the experts is that the most important objective of reentry programs is to prevent recidivism. With high re-arrest rates over a 3-year period (one-quarter of former inmates return to prison), the need to prevent recidivism is obvious, but just how to do so is less apparent. Reentry programs also seek to minimize poverty upon release and help former inmates adopt productive roles in society. Raphael asserts that achieving stable employment is a key element in reentry programs’ success in preventing recidivism and alleviating poverty.

Raphael reviews the results from experimental evaluations of several existing employment-based programs targeting inmates and noninstitutionalized at-risk populations. Unfortunately, the evaluations show only modest gains and just for a short time after leaving the program. Research suggests that continuity of assistance is crucial, along with solid prerelease planning.

Raphael concludes by offering recommendations to address the reentry challenge. He suggests that the primary problem is the overuse of prison; reducing the number of prisoners, in and of itself, will reduce the problem of reentry. He also suggests that released prisoners be categorized by risk level as a signal to potential employers of the liability associated with formerly incarcerated applicants. Lastly, he

proposes that the government share with employers the risk of incurred liability due to employee actions in order to incentivize hiring ex-convicts. These suggestions solidly support his premise that barriers to employment need to be lowered for an ex-convict's successful reentry into society.

The New Scarlet Letter? adds to the literature on incarceration and employment at a time when criminal justice policy is enjoying political attention. The revelations in this book are not necessarily shocking, but deserving of attention nonetheless. Raphael builds a solid argument for the existence of labor market difficulties that affect most inmates prior to their incarceration, the compounding effect of incarceration on employment upon the inmates' release, and the need for reforms to both incarceration and reentry policies. He also shows how the incarceration problem has a negative impact on labor market outcomes for some members of demographic groups who have no personal criminal history—an often overlooked piece of this puzzle. Most aptly, he exposes the need for data on the previously incarcerated to see the extent of their labor market difficulties. Individuals interested in criminal justice policy, incarceration, or income inequality should consider reading this book.

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